

AMENDED IN SENATE AUGUST 20, 2010

AMENDED IN SENATE AUGUST 17, 2010

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 22, 2010

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AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 289

Introduced by Assembly Member Galgiani

(Principal coauthor: Senator DeSaulnier)

(Coauthors: Assembly Members Adams, Arambula, Bass, Beall, Bill Berryhill, Tom Berryhill, Bradford, Brownley, Buchanan, Charles Calderon, Davis, Eng, Hayashi, Hill, Huffman, Jones, Lieu, Portantino, Salas, Solorio, Torres, and Torrico)

(Coauthor: Senator Florez)

February 13, 2009

An act to amend Section 185024 of the Public Utilities Code, and to add Chapter 20.1 (commencing with Section 2704.25) to Division 3 of the Streets and Highways Code, relating to high-speed rail, ~~making an~~

appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 289, as amended, Galgiani. High-speed rail.

Existing law, the California High-Speed Rail Act, creates the High-Speed Rail Authority to develop and implement a high-speed rail system in the state, with specified powers and duties. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, approved by the voters as Proposition 1A at the November 4, 2008, general election, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes. The federal Passenger Rail Investment and Improvement Act of 2008 (PRIIA) and the federal American Recovery and Reinvestment Act of 2009 (ARRA) provide funding for allocation nationally to high-speed rail projects.

~~This bill would appropriate \$221,571,000 from the High-Speed Passenger Train Bond Fund and federal ARRA funds to the authority for high-speed rail purposes, as specified. The bill would require federal high-speed rail funds received on a reimbursement basis from ARRA to be deposited in the federal trust fund. *The bill would require certain ARRA funds to be used for planning and engineering, and for capital costs, for the high-speed train system consistent with federal law and regulations and specified provisions of SB 965 of the 2009–10 Regular Session. The bill would identify the corridors eligible for federal PRIIA funds. The above provisions would become operative only if SB 965 is also enacted and becomes operative.*~~

~~This bill would specify that certain ARRA funds shall be used, upon appropriation, for planning and engineering for the high-speed train system and capital costs, as specified, and would require the authority to ensure that those funds are expended in a manner that meets federal requirements. The bill would identify the corridors eligible for PRIIA funds, upon appropriation by the Legislature, and require the authority to work with the Federal Railroad Administration to create a plan for expenditure of the ARRA funds. These provisions would not apply to the portion of ARRA funds awarded to the Transbay Terminal project in San Francisco.~~

Existing law provides for appointment of an executive director by the authority, who is exempt from civil service and serves at the pleasure

of the authority. Under existing law, the salary of the executive director is established by the authority and approved by the Department of Personnel Administration.

This bill, for purposes of managing and administering the ongoing work of the authority in implementing the high-speed rail project, would authorize the Governor, upon recommendation of the executive director *and subject to an appropriation*, to appoint up to 6 additional executive staff exempt from civil service who would serve in specified positions at the pleasure of the executive director. The bill would require the authority to cause a salary survey to be conducted to determine the compensation for the executive director and additional exempt staff, and would require the salaries to be approved by the Department of Personnel Administration. *The bill would state the intent of the Legislature to approve additional positions at the authority for purposes of creating an Office for Project Controls and Risk Management in the authority.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~yes~~-no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) With the enactment of the federal American Recovery and
- 4 Reinvestment Act (ARRA) (Public Law 111-5) on February 17,
- 5 2009, the federal government made available a grant program in
- 6 which states could apply for up to \$8 billion in federal funds for
- 7 the development of high-speed rail throughout the nation.
- 8 (b) On October 2, 2009, the High-Speed Rail Authority (HSRA)
- 9 submitted to the Federal Railroad Administration (FRA) of the
- 10 United States Department of Transportation an application for
- 11 \$4.73 billion in federal funds to further the development of
- 12 high-speed rail in California.
- 13 (c) On January 28, 2010, the federal government awarded the
- 14 HSRA \$2.25 billion to advance the development of a high-speed
- 15 rail system in this state.
- 16 (d) The HSRA estimates that 90,000 jobs will be created or
- 17 maintained by the investment of these ARRA funds, along with

1 matching state bond funds, in the dozens of construction projects
2 along the eligible corridors throughout California.

3 (e) It is necessary to provide the HSRA with unambiguous
4 statutory authority to receive and expend federal funds awarded
5 to the HSRA for the purposes described in its application of
6 October 2, 2009, and consistent with the award of those federal
7 funds.

8 (f) Moreover, it is in the state's interest to obligate and expend
9 awarded funds as expeditiously as possible and in a manner
10 consistent with the voters' expectations when they approved the
11 Safe, Reliable High-Speed Passenger Train Bond Act for the 21st
12 Century (Chapter 20 (commencing with Section 2704) of Division
13 3 of the Streets and Highways Code) in November 2008, in order
14 to expand job creation and to complete vital infrastructure
15 improvements as soon as possible.

16 SEC. 2. Section 185024 of the Public Utilities Code is amended
17 to read:

18 185024. (a) The authority shall appoint an executive director,
19 exempt from civil service, who shall serve at the pleasure of the
20 authority, to administer the affairs of the authority as directed by
21 the authority.

22 (b) *It is the intent of the Legislature to approve additional*
23 *positions at the authority for purposes of creating an Office for*
24 *Project Controls and Risk Management, which shall report directly*
25 *to the executive director.* For purposes of managing and
26 administering the ongoing work of the authority in implementing
27 the high-speed train project, upon recommendation of the executive
28 director *and subject to an appropriation in the annual Budget Act,*
29 the Governor may appoint up to six additional employees, exempt
30 from civil service, who shall serve at the pleasure of the executive
31 director. Pursuant to this subdivision, the Governor may appoint
32 employees only for the following positions:

33 (1) Chief program manager.

34 (2) Regional director.

35 (3) Chief financial officer.

36 (4) Director of risk management and project controls.

37 (c) The compensation of the executive director and the additional
38 employees authorized by subdivision (b) shall be established by
39 the authority, and approved by the Department of Personnel
40 Administration, in an amount that is reasonably necessary, in the

discretion of the authority, to attract and hold a person of superior qualifications. The authority shall cause to be conducted, through the use of independent outside advisers, a salary survey to determine the compensation for the positions under this subdivision. The Department of Personnel Administration may, in its discretion, accept a previously completed salary survey that meets the requirements of this subdivision, and shall review the methodology used in the survey. The salary survey shall consider both of the following:

(1) Other state, regional, and local transportation agencies that are most comparable to the authority and its responsibilities.

(2) Other relevant labor pools.

The compensation set by the authority shall not exceed the highest comparable compensation for a position of that type, as determined by the salary survey. Based on the salary survey, these positions shall be paid a salary established by the authority and approved by the Department of Personnel Administration.

(d) The executive director may, as authorized by the authority, appoint necessary staff to carry out the provisions of this part.

SEC. 3. Chapter 20.1 (commencing with Section 2704.25) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 20.1. HIGH-SPEED RAIL IMPLEMENTATION AND OVERSIGHT

Article 1. General Provisions

2704.25. As used in this chapter, the following terms have the following meanings:

(a) “ARRA” means the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(b) “Authority” means the High-Speed Rail Authority created pursuant to Section 185020 of the Public Utilities Code, or its successor.

(c) “Bond act” means the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Chapter 20 (commencing with Section 2704).

(d) “PRIIA” means the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110-432).

Article 2. ~~Implementation of the Safe, Reliable High-Speed
Passenger Train Bond Act for the 21st Century~~

~~2704.30. The sum of one hundred forty-four million
seventy-one thousand dollars (\$144,071,000) is hereby appropriated
from the High-Speed Passenger Train Bond Fund to the authority
for high-speed rail purposes consistent with the bond act. Of this
amount, fifty-seven million three hundred twenty-one thousand
dollars (\$57,321,000) shall be for support of the authority. Federal
funds received on a reimbursement basis from Title XII of ARRA
shall be deposited in the federal trust fund. The sum of
seventy-seven million five hundred thousand dollars (\$77,500,000)
of federal funds from ARRA in the federal trust fund is hereby
appropriated to the authority for high-speed rail purposes consistent
with federal law and regulations and the bond act. To the extent
funds are appropriated in the Budget Act of 2010 from these
sources to the authority, that act shall supersede the appropriations
in this section.~~

Article 3-2. Federal High-Speed Rail Funds

*2704.50. Federal funds for high-speed rail purposes received
on a reimbursement basis from Title XII of ARRA shall be deposited
in the federal trust fund and shall be used in a manner consistent
with federal law and regulations and Section 185036.5 of the
Public Utilities Code.*

~~2704.50.~~

*2704.51. The sum of two billion two hundred fifty million
dollars (\$2,250,000,000) in federal funds made available to the
state for high-speed rail purposes pursuant to Title XII of Division
A of ARRA shall, upon appropriation by the Legislature, be used
for (a) planning and engineering for the high-speed train system
and (b) capital costs, consistent with federal guidelines, rules, and
regulations, and this chapter, and subject to the same criteria as
the bond act. Section 185036.5 of the Public Utilities Code.*

~~2704.51. The authority shall take those actions necessary to
ensure that federal ARRA funds awarded to the state for high-speed
rail purposes are expended and used in a manner that meets all
applicable federal guidelines, rules, and regulations.~~

1 2704.52. Funds received from the Passenger Rail Investment
2 and Improvement Act of 2008 (PRIIA; Public Law 110-432) for
3 PRIIA for 2010–11 shall, upon appropriation, be available for
4 planning and engineering for any of the following corridors,
5 without reference to any individual corridor or corridors:

- 6 (a) Merced to Sacramento.
- 7 (b) Los Angeles to San Diego.
- 8 (c) The Altamont Corridor.

9 ~~2704.53. The authority shall work with the Federal Railroad~~
10 ~~Administration to create a plan for expenditure of ARRA funds to~~
11 ~~be appropriated pursuant to Section 2704.50. Upon finalizing the~~
12 ~~expenditure plan, the authority shall submit a copy of the plan to~~
13 ~~the Director of Finance and to the policy committees with~~
14 ~~jurisdiction over transportation matters and to the fiscal committees~~
15 ~~in both houses of the Legislature.~~

16 2704.54. This article shall not apply to ARRA high-speed rail
17 funds awarded to the Transbay Joint Powers Authority for purposes
18 of constructing the Transbay Terminal in San Francisco.

19
20 *Article 3. Operation*
21

22 2704.55. *This chapter shall become operative only if SB 965*
23 *of the 2009–10 Regular Session is enacted and becomes operative.*

24 SEC. 4. This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety within
26 the meaning of Article IV of the Constitution and shall go into
27 immediate effect. The facts constituting the necessity are:

28 In order to ensure that California may secure the maximum
29 amount of funds available for high-speed rail development and to
30 provide for necessary staff in that regard as quickly as possible, it
31 is necessary that this act take effect immediately.